

MC/21/0445

Date Received: 16 February 2021
Location: Buddys View, Perry Hill
Cliffe Rochester
Proposal: Change of use of land to provide for the stationing of 3no. additional caravans, extension of existing hardstanding and associated planting and parking.
Applicant: Mr and Mrs Ball
Agent: DHA Planning
Mr John Collins
Eclipse Park, Eclipse House
Sittingbourne Road
Maidstone
ME14 3EN
Ward: Strood Rural Ward
Case Officer: Amanda Barnes
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 28th April 2021.

Recommendation - Approval with Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers H-01 Rev P2 and H-03 Rev P1 received 25 February 2021.

Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 The use hereby permitted shall be carried on only by Mr and Mrs Frank Ball and their children (Priscila Ball, Charlotte Ball Jr and Buddy Ball). When the use carried on by Mr and Mrs Frank Ball and/or their children (Priscila Ball, Charlotte Ball Jr and Buddy Ball) ceases, within one month from cessation, all materials and equipment (including caravans, amenity blocks, hard surfaces, and cesspool) brought on to the land or works undertaken to it in connection with the use shall be removed and the land restored to its condition prior to the use and development taking place.

Reason: To take account of the special circumstances of the submitted application and to regulate and control any subsequent use of the premises in the interests of amenity in accordance with Policies H13 and BNE25 of the Medway Local Plan 2003.

- 4 No more than 14 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which 7 shall be a static caravan or mobile home and the other 7 are touring caravans) shall be stationed on site at any one time.

Reason: To regulate and control any subsequent use of the premises in the interests of visual amenity in accordance with Policies BNE1 and BNE25 of the Medway Local Plan 2003.

- 5 No commercial activity shall take place on the site, including the open storage of materials or the stationing of any vehicle of more than 3.5 tonnes.

Reason: To ensure that the site remains predominantly for the permitted use and reduce the potential for commercial activity on site in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 6 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping (hard and soft). All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or completion of the development, whichever is the earlier. Any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: Pursuant to condition 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality, in accordance with Policies H13 and BNE25 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

Change of use of land to provide for the stationing of 3no. additional caravans, extension of existing hardstanding and associated planting and parking.

The proposal seeks the change of use of the land to the east of the existing hardstanding and mobiles to allow for the stationing of three additional mobiles. The site is already occupied by a gypsy family and has been for some years. This proposal would increase the size of the planning unit.

The application site, known as Buddys View, is located off Perry Hill, at the northern

side. The land is a broadly rectangular shaped plot accessed by an existing entrance driveway. The application site includes the existing site with the existing four mobiles and is bound on all sides by fields.

Access to the new hardstanding area and the three additional mobiles is proposed from the existing access from Perry Hill and through the existing hardstanding area. The intended layout shows how parking and turning can also be provided within the site.

Additional planting and landscaping in the form of a triple staggered hedge row along the southern and eastern boundaries, as well as 4no. birch trees to the eastern side is proposed.

Relevant Planning History

MC/16/4380	Part change of use of land to facilitate the stationing of four additional caravans Approved 6 July 2017
MC/13/3335	The change of use of the land to provide an extension to the existing caravan site for the siting of 2 static caravans. Approved 3 April 2014
MC/08/0007	Construction of a block comprising four stables and tack/storeroom Approved 17 April 2008
MC/07/1975	Certificate of lawful development - proposed - for the use of land for the stationing of one mobile home. In addition to the one mobile home already in place - dimensions not exceeding those set in Section 13 of the Caravan Site Act, 1968 Approved 16 November 2007
MC/07/1973	Certificate of lawful development - existing - for the use of the land for the continued stationing of one mobile home, not exceeding 60ft (18.288m) in length, by 20ft (6.096m) in width and having an overall height (measured internally) of 10ft (3.048m) and complying in all other respects with the provisions of Section 13 of the Caravan Sites Act 1968 Approved, 16 November 2007
MC/07/0476	Variation of condition 1 of appeal decision APP/A2280/C/05/2001786 to permit one structure outside the legal definition of a caravan Refused, 28 June 2007
MC/06/1567	Part change of use of land to residential and siting of 1 residential unit and part change of use of land for grazing of llama. Re-siting of one shed to proposed grazing area and erection of two new sheds within the residential curtilage (Part Retrospective)

Refused, 19 July 2007

MC/06/1201 Retrospective application for the construction of a single storey utility building
Approved 20 October 2006

Representations

The application has been advertised on site and by individual neighbour notification to the owners and occupiers of neighbouring properties and to Cliffe and Cliffe Woods Parish Council.

17 letters have been received raising the following objections:

- The development is outside the village envelope
- The location is unsustainable and is not close to local amenities.
- The current occupiers dispose of greywater waste onto the bridal path adjacent to the site by the railway line causing pollution. What provision, if any, is made for blackwater waste.
- The current pitches are not occupied by family members and have been sold to other families.
- The Ball family are not Gypsies see R v South Hams District Council. They are settled and earn their living in the local area repairing roofs etc.
- Under the definitions currently used by the Government it has been suggested that by remaining static for such long periods, these people cease to be Gypsies and Travellers
- Use of agricultural land for gypsy caravans
- Possibility of more coming on the land
- Original permissions having been granted with several terms and conditions which the council should be upholding
- The original site has been somewhat secluded in the past but recent encroachment is quite visible and this new proposal will be even more outstanding
- Fear that the site could be in danger of turning into such has been seen in the past in Grays in Essex and the cost to the Council and taxpayer to resolve
- Effect on the nearby property values and concern that Council taxes will have to be reduced accordingly
- This site is of high-grade agricultural land and if this is granted it is not in keeping with the surrounding area
- Further development would disturb the natural beauty of the surrounding countryside and look totally out of place
- Additional vehicular traffic from this development puts additional strain on single carriageway roads and general infrastructure
- Inappropriate development in the Greenbelt as set out in the House of Commons Briefing Paper Number 07005, 4 January 2016 Policy E: Traveller sites in Green Belt
- History of refusal by the Council and then allowed on appeal under specific circumstances, since then it has expanded already, part of the basis for the appeal was it was "unsighted" at the bottom of the Field

- Not in accordance with Policy H13 or BNE25 of the Local Plan
- No proper refuse storage
- Additional caravans have been placed on the land without planning permission
- A wash house building has been erected without planning permission
- The number of caravans on site exceeds the number of family members of the Ball Family
- Concern about the number of dogs that may come as a result of the new caravans
- Use of the public footpath is not comfortable with barking dogs and water split on it
- No consideration for wildlife
- Poor access
- Impact on the local services such as doctors

Cliffe and Cliffe Woods Parish Council have written with the following objections:

- Not sustainable as nearest local facilities are in excess of 670m. Other applications within this vicinity have been refused for this reason.
- Contravenes Medway's policies such as BNE1, BNE25, H13. and NPPF
- Contravenes Planning Policy for Traveller Sites (PPTS) (August 2015) Policy H
- Does not qualify to be called a gypsy / traveller site unless it is for the exclusive use of the travelling community. See - R v South Hams Borough Council (1994), Greenwich LBC v Powell (1989) and R v Shropshire CC exp Bungay (1990).
- The site could be classed as a park home location due to the size of the properties and could be developed further in the future.
- Section 13 of application form does not state how foul sewage will be disposed of.
- The site will be seen from a footpath/bridleway A289 which will pass within metres of south-east corner of the proposed site and also RS84
- Proposed site will destroy views of the open countryside and out of character with surrounding area
- Outside village boundaries
- If intended for immediate enlarged family then caravans already erected on site 2 should have an application to be enlarged and replaced and not additions on a new site.
- Concerns have been expressed about the operation of the current site – dogs not contained on-site and escaping through the fence and harassing walkers on the adjacent Public Right of Way and 'grey water' being discharged onto the PROW.

Kelly Tolhurst MP has written objecting to the proposal for the following reasons:

- The site is too exposed
- The further hardstanding would be very visible from the road and surroundings
- Contrary to Policy H13 of the Local Plan
- Lack of sewerage and wastewater facilities on site and the impact this has on site and to the nearby footpath

One letter of support

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2019 and are generally considered to conform. Where there is inconsistency between the NPPF and the Local Plan, it will be highlighted in the appraisal section below.

The Planning Policy for Traveller Sites August 2015 (PPTS), Medway Council Gypsy and Traveller Accommodation Assessment, May 2018 (GTAA) and the Medway Landscape Character Assessment, 2011 (MCLA) are also relevant.

Planning Appraisal

Background

Planning permission was granted, subject to conditions, in April 2014 (MC/13/3335) for the change of use of land to provide an extension to the existing caravan site to accommodate two static caravans, the associated storage of touring caravans, car parking and landscape screening. The static caravans proposed were intended to accommodate the applicant's adult children, but the permission has not been implemented. The permission was subject to a personal condition to the applicant or his descendants. Condition 3 of that approval states that:

"The use hereby permitted shall be carried out only by Mr Frank Ball or his descendants and when the premises cease to be occupied by the said individuals the use hereby permitted shall cease."

There were other conditions imposed on this permission, including those relating to landscaping and restrictive detailing in relation to removing the caravans when no longer required by the immediate family.

An application was approved in 2016 (MC/16/4380) for the siting of static caravans and 4 touring caravans which incorporated the area of land forming the application land of the lapsed permission in addition to the stable block land. This has now been implemented.

This application seeks an extension to the east of the area that was subject to the above approved scheme. The land is a broadly rectangular shaped plot accessed by an extension to the existing entrance driveway. The submitted plans show that there would be a total of 3 mobile homes with a width of 6.8m and a length of 18m. Two parking spaces are proposed for each plot and a native hedge with tree planting is proposed to the eastern boundary.

Principle

The application site is outside of the urban boundary, as defined on the proposal maps to the Local Plan and is on land classified as open countryside to which Policy BNE25 of the Local Plan applies. Policy BNE25 of the Local Plan seeks to restrict development

within the countryside in order to protect the countryside for its own sake. This is not entirely consistent with the approach of the NPPF which supports development provided it is sustainable. Although the site itself has no other designations, it is also located within the Cliffe Woods Farmland character area as defined in the MLCA.

However, alongside the need to protect the countryside, and landscape character, sits the Council's requirement to provide housing for different groups. Paragraph 61 of the NPPF supports the provision of housing for different groups and in terms of gypsies and travellers, refers to the PPTS in footnote 25. Paragraph 84 of the NPPF acknowledges that Planning policies and decisions should also recognise that sites required to meet community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. Policy H13 of the Local Plan also relates to residential accommodation for gypsies and travellers and gives specific criteria as to where it is appropriate.

The development proposed is for the change of use to allow for specific gypsy and traveller accommodation. National Policy for Travellers (August 2015) states that the Council need to have established a 5-year supply of sites for accommodation. The need for Medway to provide additional pitches for gypsies and travellers who meet the PPTS definition of a traveller was further reiterated in a recent Inspectors appeal decision (The paddock - APP/A2280/C/18/3222539 in relation to MC/17/3126). In that decision, the Inspector stated "*it cannot be shown there is a 5-year deliverable supply of pitches to meet gypsy and traveller needs in the district... The dire lack of local provision and need for sites, and lack of alternative accommodation available to the appellant and his family are relevant factors under PPTS*". The Inspector attached significant weight.

In view of the Council's lack of 5-year land supply for gypsy and traveller sites and given that the site is already in use by a gypsy family, the principle of additional pitches to accommodate the wider family is acceptable. The main considerations therefore are; whether or not the extension of the hardstanding and the intensification of the site in respect to the number of mobile homes that would be sited there would detrimentally impact the character and appearance of the surrounding area, whether or not the development results in an unacceptable adverse impact on the living conditions of its occupants and nearby residents, and also whether the occupants of the new mobile homes would be travellers as defined by the PPTS.

Use of Site as Residential Accommodation for Travellers

The Council is required to provide an adequate 5-year land supply for gypsy and traveller pitches. The Council cannot currently demonstrate a 5-year supply of deliverable gypsy and traveller sites, this is therefore, is an important factor to consider in the determination of this planning application.

The Council is currently in the process of producing a new Local Plan. As part of this process, an assessment has been made to determine the 'need' in terms of pitches required for the gypsy and traveller community. The Medway Council Gypsy and Traveller Accommodation Assessment May 2018 (GTAA) carried out by Opinion Research Services is the most recent and up-to-date document. The assessment indicates that there is a need for 34 additional pitches in Medway over the period 2018

to 2035 for Gypsy and Traveller households that meet the planning definition; up to 15 additional pitches for Gypsy and Traveller households that may meet the planning definition; and 8 additional pitches for Gypsy and Traveller households who do not meet the planning definition. The GTAA recommends that the need for households that meet the planning definition is addressed through new pitch allocations or the expansion or intensification of existing sites. Within the new Local Plan, the need for the unknown households is likely to be met through a criteria-based policy or for those households that provide evidence that they meet the planning definition.

The Planning Policy for Traveller Sites 2015 contains the following definition of a 'traveller' (includes gypsies and travellers for the purpose of the policy document),

as:

"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or circus people travelling together as such."

This means that those who have permanently given up travelling are now not defined as 'travellers'.

The document goes on to state that:

"In determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a) whether they previously led a nomadic habit of life
- b) the reasons for ceasing their nomadic habit of life
- c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances"

The circumstances of the family

The Ball Family have been based at this site for a significant period of time and it has been acknowledged many times that they meet the definition of a gypsy family.

The occupiers of the existing caravans and their partners and families are gypsies. The application information advises that the family work with horses and travel for business attending and assisting with the horses at events as well as many gypsy fairs such as Appleby and Stow over the years and continue to do so. The Ball family have a long association with the local area.

The additional three static mobiles will be occupied by the son and daughters of Mr and Mrs Ball. All intended future occupiers are part of the extended Ball family. The extended family have also travelled extensively for many years for work and regularly to horse fairs in places such as Appleby and Stow. The intended future occupiers have themselves pursued a "nomadic" lifestyle in the building and catering trades.

The extended family have settled on this site due to the deteriorating health of elder members of the family. Whilst the family intend to continue travelling to fairs and for

work, the intended future occupiers in this case have been impacted by the COVID-19 pandemic and have been forced to reconsider their accommodation requirements in the short and long term. Both consider they now need a base from which to work, and at the same time can then also assist family members who are increasingly in need of assistance due to medical conditions.

It can, therefore, be concluded that the family members for whom the additional homes are to be provided would meet the new definition of gypsy or traveller given that they travel to earn their living, but they will from time to time temporarily spend longer periods at their base due to health or educational needs. On this basis, that the intended future occupiers meet the definitions of gypsy or traveller as set out in the PPTS 2015.

Impact on the Countryside and Design

The impact on the character of the area needs to be assessed in accordance with the provisions of Policies H13, BNE1 and BNE25 of the Local Plan and paragraphs 124, 127 and 170 of the NPPF and the MLCA. The site falls within open countryside and the Cliffe Woods Farmland character area as defined in the MLCA. The MLCA describes the landscape type as flat or undulating mixed farmland. The mixed farmland comprises arable farmland and orchards which are diverse, small scale and intimate. Poplar shelterbelts are a dominant feature along lanes, road and fields, providing a strong sense of enclosure. The character area is described as having a tranquil, rural feel away from main roads which creates a distinctive landscape with few detracting features. Of the few detracting features listed are the pylons to the north of the character area, which are in close proximity to the north of the application site. The guidelines contained within the MLCA seeks to resist development that is visually intrusive and encourages the restoration/reinstatement of hedgerows and poplar shelterbelts and promote the use of native species to reinforce rural character.

This application involves the extension of an existing traveller site to the east. The three additional static mobiles would be located on hardstanding which would form an extension to the existing area of hardstanding. The siting of the mobiles has the potential to result in the intensification of visually intrusive features within the landscape which may result in harm to the character and appearance of the area. However, the application site is in close proximity to the existing detracting features of the pylons which are of a much larger scale. The existing site is currently well laid out and the submitted layout shows a similar pattern. The proposal includes landscaping in the form of a triple staggered hedgerow along the southern and eastern boundaries, as well as 4 birch trees to the eastern side which would help screen the static mobiles and fulfil a requirement of the MLCA by introducing native landscaping. It is considered necessary that should planning permission be forthcoming, this landscaping be secure by condition.

It is also worth noting that there is strong landscape screen to the western side of the nearest residential dwellings that are located to the east of the application site.

It is considered that although there is the potential for the proposal to cause harm to the character and appearance of the area as a result of the siting of the three additional mobiles, having regard to the Council's lack of 5 year land supply for gypsy and

traveller pitches; and taking account of the existing detracting feature that is the pylons, that the existing site is well laid out and with the proposed landscaping place, in addition to the existing landscape screen to the east, no objection is raised with regards to Policies BNE1, BNE25 and H13 of the Local Plan, paragraphs 124, 127 and 170 of the NPPF and the PPTS.

Given the countryside location and the potential visual impact the proposal could have, albeit landscape screening is proposed, it is recommended that conditions be included: to allow for a personal permission; to restrict the number of mobiles and caravans as well as vehicles of a certain size; and for the land to be restored should the Ball family vacate the site, given that the new local plan is progressing whereby it is a requirement to include allocated gypsy and traveller sites, which would be done following for a thorough assessment across the borough for the most appropriate sites.

Amenity

The main consideration in relation to amenity relates to the nearest established residential houses and the likely impact or disturbance that these proposed units will have on them.

The closest house to this proposed site is 'The Poplars' which is located on Perry Hill, approximately 30m+ from the application site (as the crow flies) to the east. The boundary treatment that runs along the western boundary of The Poplars is high conifer trees/hedges that obstruct any views across to Buddy's View to the west. Given that this landscape screen is in place and that the proposal shows there to be landscape screening to the site itself, it is considered that there is no harmful impact to this neighbour in terms of visual amenity.

In terms of potential noise disturbance from the application site, given the site is already occupied in more cramped conditions within existing static mobiles and taking account of the landscape screen to the west of The Poplars as well as the proposed landscaping to the site itself, it is considered that any noise increase from the three additional static mobiles would not result in a detrimental impact on neighbouring residential amenity.

In terms of the amenity of the future occupiers, it is considered that given that the occupants have mostly been raised at the site and therefore the proximity to local services and access arrangements are not altered. The site is located approx. 900m north of Cliffe Woods, which provides services including: Cliffe Woods Primary School, Phoenix Day Nursery, Cliffe Woods Social Club, Highparks Medway Practice, Autoshoppe Garage, S.E.T Car Servicing, Emmanuel Christian Centre, Anotolia Kebab Takeaway, Village Mini Market and a Post Office as well as bus links. Approx. 1.6km north west of the application site lies the village of Cliffe, which provides services including: JS Minimarket Convenience Store, St Helens C of E Primary School, Cliffe Pre School, The Village Club, Walkway Electronics Retail and Repair Shop, Golden House Takeaway, Six Bells Public House and Cliffe Men's Social Club. The power provision, water and sewerage are all to be linked to the existing set up and with the proposed screening options are proposed, no objection is raised.

The proposal is therefore considered acceptable with regard to amenity and in

accordance with Policies H13 and BNE2 of the Local Plan and paragraph 127 of the NPPF.

Highways

Buddy's View has an already established driveway and entrance. The proposals will use the existing access. It is not therefore considered that there are any highways related issues with this application, and it is in accordance with Policies H13, T1 and T13 of the Local Plan and paragraph 109 of the NPPF.

Bird Mitigation

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £250.39 per dwelling (excluding legal and monitoring officer's costs) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMB) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMB measures is secured and the SAMB strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have paid this tariff. No objection is therefore raised under Paragraphs 175 and 176 of the NPPF and Policy BNE35 of the Local Plan.

Other Matters

Some objectors have referred to possible future expansion, but this is not a relevant consideration in respect of this application.

Conclusions and Reasons for Approval

The proposed change of use and extension to the existing hardstanding has the potential to result in visual harm to the landscape character and appearance of the area. However, given the Council's lack of a 5-year land supply for gypsy and traveller sites and that landscape screening is proposed the proposal is considered acceptable subject to the suggested conditions.

On this basis the proposal is considered to be in accordance with Policies BNE1, BNE2, BNE25, BNE35, H13, T1 and T13 of the Local Plan; the Planning Policy for

Travellers (August 2015) and paragraphs 61, 84, 109, 124, 127, 170, 175 and 176 of the NPPF.

This application would normally be determined under delegated powers however in this instance the proposal has to be determined at Planning Committee due to the number of letters of expressing a view contrary to the Officer's recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>